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Paper No. 10

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**APR 24 2002**

**OFFICE OF PETITIONS**

In re Application of :  
Gerhard Benner, Astrid Heptner, and Anja :  
Knuppel :  
Application No. 09/723,189 :  
Filed: November 27, 2000 :  
Attorney Docket No. Beiersdorf 670 :  
Title: COSMETIC AND :  
DERMATOLOGICAL LIGHT PROTECTION :  
FORMULATIONS IN THE FORM OF O/W :  
MACROEMULSIONS OR O/W :  
MICROEMULSIONS CONTAINING SHEA :  
BUTTER :

DECISION ON PETITION

This is a decision on the petition filed on January 23, 2002, pursuant to 37 C.F.R. §1.137(b)<sup>1</sup>, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 23, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR §1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 24, 2001. A Notice of Abandonment was mailed on December 12, 2001.

<sup>1</sup> A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

With the instant petition, the petitioner has submitted the petition fee, an amendment, and has made a statement of unintentional delay. Petitioner has also submitted \$920.00 for a three month extension of time. An extension of time under 37 C.F.R. §1.136 must be filed prior to the expiration of the maximum extendable period for reply<sup>2</sup>. Accordingly, since the \$ 920.00 extension of time submitted with the petition on January 23, 2002 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being forwarded to Technology Center 1600 for further processing.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Paul Shanowski at (703) 305-0011.



Paul Shanowski  
Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

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<sup>2</sup> See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).